

Testimony of Toni Ayers

Law and Justice Committee, November 7, 2017

SENATE BILLS 72, 73 and 220

Hi, my name is Toni Ayers. I am here with my sister, Linda McNelis and our close family member, Connie Johnston. It is an honor and privilege to stand before you. Thank you Representative Kesto for giving us this opportunity to testify before this Committee today.

We are here in support of Senate Bills 72, 73 and 220. These are Drug Offense Parole Eligibility Bills. The Bills were introduced by Senator Bieda with whom we've worked very closely with for several years now. We are very grateful for him. The Sponsors of these Bills are Senators Jones, Kowall and Hertel.

The current status of these Bills is they have recently passed unanimously in the Senate on September 20th. We have support from Criminal Defense Attorney of Michigan, CAPPS, and FAMM. We were told we can be comfortable to say that the MDOC has no issues with this legislation. We met with Mr. Allen Cropsy of the Attorney General's office this past April and he indicated that he will advise the Attorney General to "not weigh in on them".

These Bills are important to us because my brother's life is dependent on them. My brother is John Sellors; he is a low level, non-violent drug offender sentenced to **DOUBLE LIFE WITHOUT PAROLE**. He has currently served 17 years. John is sentenced under **Enhancement MCL.333.7413**. This Enhancement mandates life without parole for a second offence of over 50 grams of a controlled substance. John's second offense was for 51 grams of cocaine.

These Senate Bills address this enhancement and if passed, will give John and four others an opportunity for parole. It is important to recognize that it will not release anyone from prison, but will put the jurisdiction in the hands of the parole board.

In 2002, the Michigan Legislature and the organization FAMM (families against mandatory minimums) made great strides in the drug reform laws. Public act 353 eliminated almost all mandatory minimum sentences for non violent drug offenders, including the 650 lifer law. **Enhancement 7413** was left behind! The new laws allow the large amount drug offenders (those convicted of more than 1,000 grams or more) a chance at parole and yet this Enhancement still exists for the lower levels mandating them to Life without parole for their second offense.

To summarize these bills: **Senate Bill 73** eliminates life without parole for the lower level offenders.

Senate Bill 72 adds a new section, section 17. This section clarifies those previously sentenced under Enhancement 7413 will be eligible for parole after serving five years for each offense. This usually amounts to ten years as drug offenses are most often stacked.

Senate Bill 220 was added to renumber sections of the penal code as a section would be removed.

My brother John has filed for three commutations, none have gone through. We haven't had a legislative opportunity to address this situation in 15 years so we are working as hard as we can to get these bills passed. We humbly ask for your support. Thank you, and at this time my sister Linda will give her testimony.

Testimony of Linda M. McNelis

LAW AND JUSTICE COMMITTEE

Public Hearing on SB 72, 73 and 220

November 7, 2017

I too appreciate the opportunity to speak on behalf of these bills.

I would like to explain the rationale for supporting these bills. The main issue with mandatory minimum sentences is that they take away the judge's discretion to take all factors into consideration and sentence fairly. My sister and I were at my brother's sentencing, and the judge said, "I have no choice" in this sentence. This was shocking and devastating. In 2002, the judge even wrote a letter in support of an early release for John if it were to be recommended. That letter is in your folder.

We strongly agree that all drug offenders deserve to be punished, and we realize the seriousness of the drug problem in Michigan. However, we feel that in the case of Enhancement 7413, the punishment does not fit the crime. Life without parole should be reserved for the most heinous of crimes. Passing these bills would not be considered "soft on crime," but rather smart on crime.

I would also like to summarize the main events involving the history of drug laws in Michigan. In the late sixties and early seventies, harsh drug laws were implemented, and mandatory minimums were put in place. These laws were intended mainly to capture "drug kingpins." However, they found that thousands of low level drug offenders were incarcerated for long periods of time, costing millions of dollars and not decreasing the crime rate or recidivism. In the nineties, Michigan modified the "650 Lifer" law to allow parole eligibility to some people who were sentenced to mandatory life without parole drug offenses. In 2002, drug reform laws eliminated all mandatory minimums except for Enhancement 7413.

Now here we are in 2017, with a handful of low level drug offenders left out, lost in the system to die in prison. Passing these bills would put them in alignment with the previously passed drug reform laws.

In closing, I would like to share with you a little bit about John. He has managed to stay positive and maintain close relationships with his family in this overwhelming situation. He has an excellent prison record with no history of violence. He has also volunteered or participated in many of the programs offered in prison. At one point, he was tutoring inmates to help them pass their GED. He currently works forty hours per week for the Michigan Braille Transcribing Fund which is a nonprofit organization housed in the G. Robert Cotton Correctional Facility. He is certified to transcribe high tech graphics for textbooks for the blind. If he were ever released, he has been promised employment by them to work from home.

Connie would now like to speak to you about some of the support we have gained over the years.

Testimony of Connie Johnston – November 7, 2017

Senate Bills 0072 and 0073 directly relate to an article that was written in the Detroit Free Press last year on December 2, regarding a meeting between Governor Snyder and Michigan Business Leaders. Allow me to paraphrase a few key points of the article which go on to say, "Here in the Great Lakes State, one of every five general fund dollars goes towards corrections, representing our second largest budget line item. Prison inmates in Michigan serve longer average sentences than any other state in the country." The article goes on to say that we are putting too many low level, non-violent offenders behind bars for far too long. Governor Snyder received a standing ovation when he stated that "tough on crime" rhetoric only has many prisoners serving more time when they can be functioning in society and possibly in the business sector. Forum attendees then voted "smart justice reform" to be one of the group's top 5 priorities."

Although only 5 known low level, non-violent offenders would be affected by these bills, all of them have over 17 years served which the cost to Michigan taxpayers has already run into the millions. The cost of incarcerating these individuals for the remainder of their lives would run well into several million more dollars. Law reforms in other states have proven to save hundreds of millions of taxpayer dollars that could be put to better use such as in education, training, and infrastructure. These five inmates represent the harshest of prison sentences for non-violent crimes in the entire state of Michigan, possibly in the nation.

Over the years we have gained much support from several conservative organizations. To name a few, CAPPS, FAMM, President of "Freedom Works", Policy Director Of "Right on Crime"; Texas Public Policy Foundation, Americans for Tax Reform, Director of Criminal Justice Reform, "Reason Foundation" as well as The Mackinac Center for Public Policy. These organizations have written letters in support of drug reform sentencing and state that, "The Michigan legislature was right to take the first step towards reform in 2002 and respectfully request that the Michigan legislature finish the job they started 15 years ago." You will find these letters in your packet.

Back in March of this year we started a Change.org petition in support of SB0072 and SB0073 and we quickly received over 17,000 signatures and as of today, we are still gaining support from this platform. The petition summarizes all that we are discussing here today as well as a more detailed personal look into John's life. You will find this petition in your packet.

On a personal note, our family has been on a long and passionate journey to seek justice for John. We have diligently tried every other avenue to correct this problem. After meeting with the Attorney for the Governor's office, it was recommended that, in lieu of filing another commutation, we should move in the direction of legislative change, which brings us here today. We are comfortable saying we believe we would have the support of the Governor's office, should these Senate Bills pass.

Again, thank you from all of us for allowing us the opportunity to meet and speak with you and for your consideration in passing these bills. We sincerely hope and pray that the decision of this committee is to report with favorable recommendation.

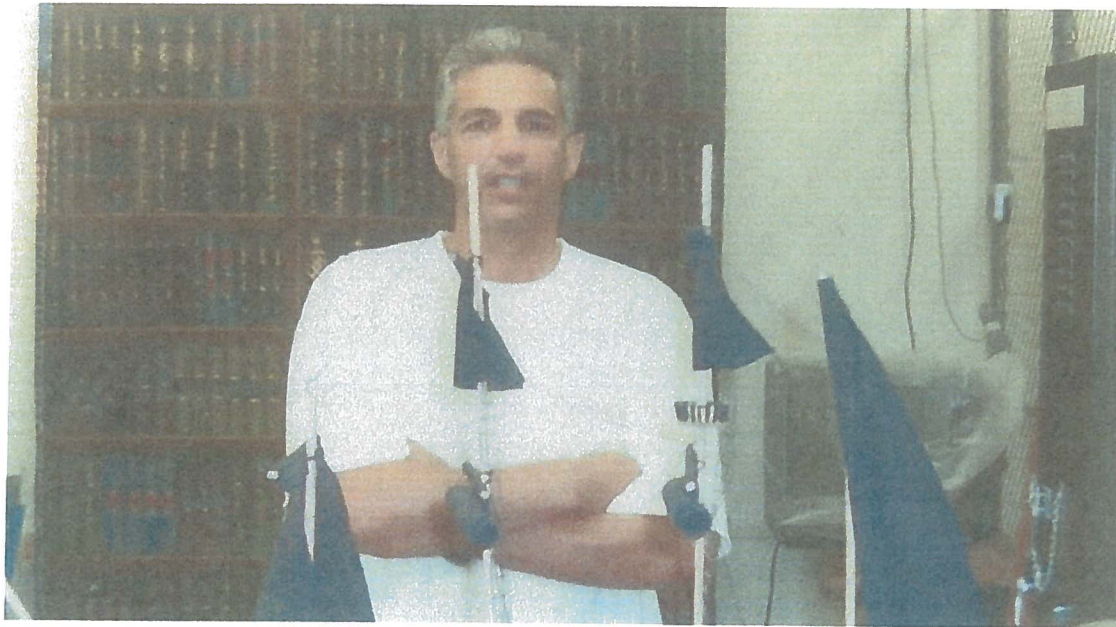
Petitioning: Michigan Department of State – Legislators

Change.org - <https://www.change.org/p/michigan-department-of-state-legislators-sentenced-to-die-in-prison-for-a-non-violent-drug-offense-please-support-law-change>

17,133 Supporters (as of 3/11/17)

428 pages of signatures and 140 pages of comments available upon request as a PDF file

Sentenced to die in prison for a non-violent drug offense, please support law change.



We are currently in the process of having two Senate Bills introduced to legislation in 2017, SB0072 and SB0073, in hopes of granting John Sellors parole eligibility. The bills being introduced aim to eliminate Enhancement Statute MCL333.7413 if they are passed. John Sellors is currently serving a **DOUBLE LIFE SENTENCE WITHOUT PAROLE**, essentially a death sentence, for a **non-violent drug offense**. He has an excellent prison record and has never committed a violent crime.

John has already served 17 years in prison. This double life sentence without parole was for a second offense of selling between 50-225 grams of cocaine. His second offense was for **51**

grams. The reason John was given this harsh sentence is due to Enhancement Statute MCL333.7413 which was mandated by law. The judge had **no discretion** in this sentence. Since John's incarceration, the sentencing judge has even written a letter of support **for a commutation or a pardon** for John, a clear indication that the severity of this sentence is unjust. During these 17 years John has filed for 4 commutations, sadly all were denied. If John had been sentenced under Federal guidelines as opposed to State guidelines, we firmly believe President Obama would have granted him clemency. Unfortunately, our only hope of getting John released, is to get the laws changed in the State of Michigan. **Without this law change, John will essentially spend the rest of his life in prison.**

These mandatory minimum drug laws were originally intended to keep drug kingpins off the streets. Most mandatory minimum drug laws have been repealed, and many drug kingpins' are back on the streets while John has no chance at freedom. We feel that Enhancement Statute MCL 333.7413 is cruel and unusual punishment in its severity, and should have been included in the 2002 drug reform laws, that eliminated mandatory sentences for all the charges. The Senate Bills that are being introduced in 2017 will reflect an **"amendment"** to the drug reform laws **that passed in 2002.**

John's sentence is reserved for the most heinous, violent criminals such as terrorists, rapists and mass murderers. John is the furthest thing from a violent criminal. In fact, we have no doubt that he would be a viable member of society if he were released. He often talks about wanting to do community service to give back. John admits full responsibility for what he did, and has deep regrets for his actions.

Somehow, through the grace of God, John has managed to stay positive and connected with his family in this overwhelming situation. He has kept an excellent prison record. He is also currently working 40 hours per week in the G. Robert Cotton Facility's Braille program and has earned special endorsements to do high tech graphics for the text books for the blind. He has been told that if released, he will remain employed through them and will be set up to work from home. The following is a summary of some of his accomplishments during his incarceration.

Earned a certificate in Braille Translation from the National Federation of the Blind and currently works as a leading Braille Translator.

Completed the 12 step program.

Earned a Culinary Arts Certificate.

Tutored inmates in the Food Technology Program.

Served as the Host of the Staff and Visitor's Dining Room.

Acted as the Catholic representative in the prison's Religious Program.

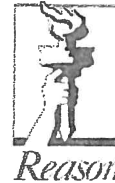
Tutored fellow inmates for their GED's.

Our Family has been on a long, tedious, and passionate journey to seek justice for John and his two sons. We have a great deal of support from family, friends, community, clergy, journalist, and legislators. We realize that John should be punished for his crime, but strongly feel the **punishment does not fit the crime.** The \$40,000 per year it takes to house a prisoner could be much better spent elsewhere. Some of the things we have done as a family includes:

*Joined and actively supported FAMM (Families Against Mandatory Minimums).
Attended meetings with CAPPs (Citizens' Alliance on Prisons and Public spending).
Met with and have actively supported the Humanity for Prisoners Organization who submitted his second Commutation Application.
Created a website to publicize his case.
Conducted a Town Hall meeting at St. Donald's Parish led by our Pastor, Father Michael Donovan. Over 200 people attended and many wrote letters on John's behalf. These letters were sent to the parole Board
The Macomb Daily and our parish paper wrote articles to publicize John's plight.
Forwarded petitions containing 499 signatures of support, including two legislators, which were sent to the Parole Board with a previous application in 2007.
Created a family video about John that was sent to all state legislators.
Met personally with many Legislators and Senators.*

Today John is a changed man. He is deeply remorseful for the choices he made many years ago that impacted not only his life, but that of his family and friends. Since being incarcerated, both John's mother and younger brother have gone to be with Our Lord. Both of his sons are now adults, 25 and 21, and John wants so desperately to get the chance to come home and prove his love and loyalty to them as well as his entire family. Our family is very close knit and we have been, and will continue to be, a great support team for John.

In closing, we appreciate you taking the time to read this. We desperately pray that you will find it in your heart to not only sign this petition but to share it on any and all social media platforms. Thank you.



5/22/2017

The Honorable Mike Kowall
Majority Floor Leader, Michigan Senate
P.O. Box 30036
Lansing, MI 48909-7536

Re: Drug Sentencing Reform

Dear Leader Kowall:

We and our organizations represent concerned citizens, taxpayers, and people of faith who believe in the fundamental American values of individualized justice, treating men and women with dignity and value, proportionality of punishment, and respect for liberty and due process. We also believe in building and protecting families and communities, and giving the opportunity of a second chance to those who have paid their debt. In recognition of these values, we write to express our support for repeal of life without parole provisions in Michigan's drug sentencing laws, and support parole eligibility for those currently serving life without parole for drug offenses.

In 2002, the Michigan legislature repealed most of your state's mandatory minimum drug sentencing laws, including the so-called "650-Lifer" law, which had been in place since the 1970's. At the time, Michigan's laws were among the most punitive of their kind in the country. However, decades of incarcerating thousands for low-level drug crimes resulted not in safer communities, but expansive correctional budgets and high recidivism rates. Of the reforms, then Livingston County prosecutor and President of the Prosecuting Attorneys Association of Michigan, David Morse, said it best: "The time had come to make the change. The idea of stiff severe penalties for drug kingpins was a problem because we weren't getting those kingpins. We were getting people who were carrying on behalf of kingpins."

Michigan's repeal of 650-Lifer and other mandatory minimum sentencing laws were the right move. Since 2003, Michigan has released thousands who have committed low-level drug offenses from prison, saving tens of millions in unnecessary corrections costs. Most importantly, Michigan's communities were made safer: the overall crime rate fell nearly 40% between 2003 and 2015.

Michigan's experience with sentencing reform provided a model that many states have since followed. Over the last 15 years dozens of states – including New York, Florida, Georgia, South Carolina, Mississippi, Oklahoma, North

Dakota, Montana, and Iowa – have either reformed or repealed mandatory minimum drug laws similar to those referenced in these bills. They have all seen the same kinds of benefits Michigan achieved with its earlier reforms.

The time has come to take the next step toward reform. Despite the remarkable impact of earlier reform, Michigan law still requires a mandatory sentence of life without parole upon a second conviction for possessing as little as 50 grams of certain illegal drugs. This anachronistic provision is an outlier relative to other states, and it subjects those who commit low-level drug crime – many of whom are battling addiction – to the kinds of harsh sentences the legislature rightfully rejected for most similar cases in 2002.

Reforms to these one-size-fits-all sentencing laws will help restore proportionality of punishment, judicial discretion, and consistency of policy to drug sentencing in Michigan. The legislature was right to take the first step toward reform in 2002. Fifteen years later, we respectfully request that the legislature finish the job.

Sincerely,

Grover Norquist,
President, **Americans for Tax Reform**

Adam Brandon,
President, **FreedomWorks**

Pat Nolan,
Director, Center for Criminal Justice Reform, **American Conservative Union Foundation**

Craig DeRoche,
Senior Vice President, Advocacy & Public Policy, **Prison Fellowship**

Holly Harris,
Executive Director, **U.S. Justice Action Network**

Marc Levin,
Policy Director, **Right on Crime; Texas Public Policy Foundation**

Lauren Krisai,
Director of Criminal Justice Reform, **Reason Foundation**

Greg Newburn,
State Policy Director, **Families Against Mandatory Minimums**



3/14/2017

The Honorable Rick Jones
Chairman, Senate Judiciary Committee
P.O. Box 30036
Lansing, MI 48909-7536

RE: Support for SB 72 and SB 73

Dear Chairman Jones:

Families Against Mandatory Minimums (FAMM), which since 1991 has been working to promote sentencing policies rooted in the fundamental American values of individualized justice, proportionality, and respect for liberty and due process, writes in support of SB 72 and SB 73.

In 2002, FAMM worked with the legislature to repeal most of Michigan's mandatory minimum drug sentencing laws, including the so-called "650-Lifer" law. At the time, Michigan's laws were among the harshest of their kind in the country. However, after decades of incarcerating thousands of low-level drug offenders, it was clear the experiment had failed. Then Livingston County prosecutor David Morse said it best: "The time had come to make the change."

Repeal of "650-Lifer" and other mandatory minimum drug laws was undoubtedly the right move. Since 2003, Michigan has released thousands of low level drug offenders from prison, and saved tens of millions in unnecessary corrections costs. Most importantly, Michigan's overall crime rate fell nearly 40% between 2003 and 2015.

Michigan's experience provided a model that many states have since followed. Over the last 15 years dozens of states – including New York, Florida, Georgia, South Carolina, Mississippi, Oklahoma, North Dakota, and Iowa – have either reformed or repealed mandatory minimum drug laws similar to those referenced in these bills. The results have been uniform: smaller prison populations, lower costs, and lower crime.

The time has come for Michigan to make another commonsense change. Current law requires a mandatory sentence of life without parole upon a second conviction for illegally possessing as little as 50 grams of certain illegal drugs. This provision subjects low-level drug offenders – including addicts – to the kinds of harsh sentences the legislature rightfully rejected for most offenders in 2002. All available evidence – including Michigan's own experience – proves mandatory minimums do not deter drug trafficking, drug abuse, or crime generally. Additionally, these laws waste scarce resources on unnecessary incarceration instead of making them available for more effective crime deterrents, such as hiring additional police officers and prosecutors. In 2002, Michigan took a major step toward making its drug sentencing laws more effective. FAMM encourages the legislature to take the next step and pass SB 72 and SB 73.

Sincerely,

A handwritten signature in black ink, reading "Greg Newburn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Greg Newburn
State Policy Director
Families Against Mandatory Minimums

By Dick DeVos

President Gerald Ford, who had represented Michigan for nearly 25 years in the House of Representatives, once famously remarked, "A government big enough to give you everything you want is a government big enough to take from you everything you have."



Dick DeVos

Nowhere is this statement more applicable than in our criminal justice system. Here in the Great Lakes State, one in every five general fund dollars goes toward corrections,

representing our second-largest budget line item. Prison inmates in Michigan serve longer average sentences than any other state in the country. This "too big to fail" government program was meant to keep us safe and act as a deterrent to potential criminals everywhere. Sadly, this approach did not provide the public safety return.

We are putting too many low-level, nonviolent offenders behind bars for too long, depriving them of any chance for success. And when they return to society, as more than 95% of them will, we are often returning better criminals, not better citizens.

On a positive note, state leaders on the right and the left are beginning to recognize the deficiencies in the old tough-on-crime policies and instead supporting smart-on-crime initiatives. A parole reform bill passed the state House of Representatives by an overwhelming bipartisan vote last year, but died in the Senate. In 2016, this legislation returned and again passed the House, while a multi-bill reform package passed the Senate unanimously. Unfortunately, the House and Senate appear to be in a standoff over which chamber should move first to send the other chamber's legislation to the governor's office.

Recognizing we are running out of time, an unlikely chorus of voices is rising up to demand that the Legislature put aside petty political issues and move these reforms to final passage: the Michigan business community.

You may wonder why business leaders would care about what some view as a purely "social justice" issue. First, similar reforms in other states have proven to save hundreds of millions in taxpayer dollars. That's money that could be better put to use in education, training, and

infrastructure improvement, issues all very important to a healthy Michigan.

Furthermore, many businesses in Michigan are facing a real dearth in skilled labor, and returning citizens could certainly fill that void if they are properly rehabilitated and given the tools to successfully re-enter society. One recent study showed that employment was the single most important influence on reducing recidivism, and ex-offenders who are able to obtain gainful employment are twice as likely to stay crime-free, which means all our communities are safer.

Anyone doubtful of business' support for justice reform would have become a believer at the recent West Michigan Policy Forum in Grand Rapids. In his address to a room packed with hundreds of Michigan business leaders, Gov. Rick Snyder energized the audience when he was asked about the prospects for justice reform, stating that supporting tough-on-crime rhetoric that would see many prisoners serve more time is "the dumbest thing you can do." Snyder challenged the businesses in the room to consider hiring returning citizens, drawing a standing ovation from the group. Later, General Counsel and Senior Vice President of Koch Industries Mark Holden delivered remarks to the forum, offering that prisoners "have a lot of untapped genius, a lot of untapped skills, and we want the best people, period, with or without a criminal record." Forum attendees then voted smart justice reform as one of the group's top five policy priorities.

Michigan lawmakers who are still reluctant to support smart justice reform would be wise to listen to these business voices. Ultimately, legislators have two choices: they can pass these reforms now and continue Michigan's efforts in the reform movement, or succumb to the type of legislative dysfunction that we expect out of Washington, D.C.

So let us be ever mindful of the admonition of former President Ford, and right-size our bloated and ineffective justice system to address what Michigan really needs: a broad and skilled workforce, and safer communities. Michigan lawmakers should listen to their state's business leaders, break this stalemate, and move smart justice reforms to the governor's desk as soon as possible.

Dick DeVos is president of the Windquest Group.

Why businesses should care about over-incarceration



The Circuit Court
for the Sixth Judicial Circuit of Michigan

1200 N TELEGRAPH RD DEPT 404
PONTIAC MI 48341-0404

JOHN J. McDONALD
CIRCUIT JUDGE

SIXTH JUDICIAL CIRCUIT
OF MICHIGAN

May 17, 2010

Linda McNelis
15678 Craig Drive
Fraser, MI 48036

Re: People of the State of Michigan v John Sellors
Case No. 00-174817-FC

Dear Ms. McNelis:

I am in receipt of your correspondence regarding the application for reprieve, commutation, or pardon of John Sellors, upon whose behalf you are gathering support.

In cases such as this, I typically receive correspondence from the Governor's office asking my opinion before an inmate is released. I have not yet received anything from Lansing pertaining to Mr. Sellors. I have, however, reviewed Mr. Sellar's file, and I do not have any objections to an early release if that does become the recommendation.

The Canons of Judicial Ethics prohibit me from engaging in ex parte communications with litigants, their attorneys, or others acting on their behalf. Therefore, I believe it would be inappropriate for me to meet with you. However, I will carefully consider the information, if Governor Granholm chooses to contact me in regard to Mr. Sellors. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. McDonald".

The Honorable John J. McDonald
Circuit Court Judge

cal



Clara Edna Sellors

August 27, 1935 - September 9, 2014

Mother's Words (written in 2004, before she passed away on 9-9-2004)

To go public with my son's story is the most difficult thing I have ever done in my life. My son, John Sellors, because of a second conviction of involvement with the sale of cocaine (between 50-225 grams) received two life sentences without parole. Because of the severity of the sentence, the embarrassment that he had made another bad choice, and the heartache we suffer when we discuss his situation, we chose to hide the facts from relatives and friends.

After weighing up the results of doing nothing versus speaking out to the people who can do something to help our son, we decided that our son's life is worth fighting for.

The Michigan Legislature and the FAMM group have made great strides in eliminating mandatory minimum sentences for drug offenders of non-violent crimes. Unfortunately, my son was not given a "minimum" sentence. His sentence, through an enhancement statute, MCL 333.7413(1), gave the Honorable Judge John J. McDonald (Oakland County) no discretion to consider important factors in my son's case. John received \$300 for his involvement in the drug transaction of 51 grams. We agree he should serve time because of his prior record; however, we hope the Michigan State Legislature will agree that **the punishment does not fit the crime**.

A sentence of "life without parole" is the harshest punishment in Michigan. It is given to those convicted of first-degree murder and even serial killers. We all know that even murderers, rapists, child molesters and other violent criminals are eligible for parole.

The recent drug sentencing reform laws eliminated mandatory minimum sentencing and enables judges to use discretion in sentencing, but the changes did not effect anyone having a "life without parole" sentence. The new laws allow drug dealers convicted of 1,000 (or more) grams of cocaine the possibility of parole; and yet my son received two life sentences without parole for his second offence of between 50-225 grams of cocaine (**this second time for 51 grams**). How can his sentence be harsher than first-degree murder and harsher than involvement in 1,000, or more, grams of cocaine. How can this huge discrepancy in sentencing be fair?

It is my understanding that there are only a few others in the State of Michigan sentenced under the enhancement statute. Not only is a two-life sentence without parole a harsh and unusual punishment, but to house non-violent drug offenders in prison until they pass away of old age (at approximately \$30,000 per year) will result in budget expenditures in the millions of dollars.

I plead with the Honorable Governor Jennifer Granholm and the Michigan State Legislature to consider revising legislation to allow those convicted of a second offence of 50-225 grams of cocaine an opportunity to be resentenced based on a judge's discretion considering the same guidelines used in sentencing other drug violations.